

Amend Sections 276, 276.1, 276.2, 276.3, and 531.1 of the Revenue and Taxation Code, relative to the disabled veterans' exemption, to 1) correctly identify the appropriate authority for the statute of limitations period for claims for refunds; 2) provide a reasonable time for a claimant to file with an assessor; 3) allow the exemption on existing property owned by a claimant; 4) provide additional situations for the termination of the exemption; and 5) authorize escape assessments upon the termination of the exemption.

Source: Legal Division and Property Taxes Department

In 2000, various legislation (i.e., AB 2562, SB 1362, and SB 2195) amended and enacted various sections of the Revenue and Taxation Code to expand the availability of the disabled veterans' exemption. The following proposed amendments are intended to simply provide technical corrections and minor amendments to facilitate the availability and administration of the exemption.

Refunds. Under current law, Section 276 provides for a 90% or 85% partial exemption for late-filed claims for the disabled veterans' exemption. Section 276.1 allows a claimant to retroactively qualify for the disabled veterans' exemption if his or her disability rating was not received on a timely basis from the United States Department of Veterans Affairs (USDVA).

Current Section 276.1 allows a claimant to retroactively qualify for the exemption in situations in which the claimant has had a delay in receiving his or her disability rating from the USDVA. Situations can occur in which a claimant receives his or her disability rating in late December and not have adequate time to complete a timely filing for the exemption with the assessor.

This proposal would provide a reasonable time period for a claimant to file with the assessor by automatically allowing either 30 days from the receipt of the disability rating from the USDVA, or on or before the following lien date, whichever occurs the latter. This proposal would also provide technical amendments to Sections 276 and 276.1 to correctly identify the appropriate statutory authority for the cancellation of taxes and the statute of limitations period for the refund of taxes.

Portability. Existing Sections 276.2 and 276.3 together provide for the portability of the disabled veterans' exemption from one property to another. Section 276.2 currently provides for an individual to file a claim for the exemption for property acquired after the lien date. Section 276.3 currently provides for the termination of the exemption when an individual sells or otherwise transfers the property to a person ineligible for the exemption.

This proposal would amend Section 276.2 to allow an individual to claim the disabled veterans' exemption on property already owned by the individual on the lien date but in which he or she did not reside on that date. Section 276.3 would be amended to allow an exemption to terminate on an old residence on the date that the exemption is applied for on a new residence or, if an individual does not apply for

the exemption on a new residence, the exemption to terminate on the old residence on the date that the individual ceases to reside at that location.

Escape assessments. This proposal would amend Section 531.1 to specifically authorize escape assessments on property after the termination of an exemption pursuant to Section 276.3. The proposed amendment to Section 276.3 includes a reference to Section 531.1 authorizing such escape assessments.

Section 276 of the Revenue and Taxation Code is amended to read:

276. (a) Except as otherwise provided by subdivision (b), for property for which the disabled veterans' exemption described in Section 205.5 was available, but for which a timely claim was not filed, a partial exemption shall be applied in accordance with whichever of the following is applicable:

(1) Ninety percent of any tax, including any interest or penalty thereon, levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim shall be canceled or refunded, provided that an appropriate claim for exemption is filed after 5 p.m. on February 15 of the calendar year in which the fiscal year begins but on or before the following December 10.

(2) If an appropriate claim for exemption is filed after the time period specified in paragraph (1), 85 percent of that portion of any tax, including any interest or penalty thereon, that was levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, shall be canceled or refunded. Cancellations or refunds made or under this paragraph are subject to the provisions of Article 1 of Chapter 4 (commencing with Section 4985). Refunds issued under this paragraph are subject to the limitations periods on refunds as described in Section 5096 Article 1 of Chapter 5 (commencing with Section 5096).

(b) If a late filed claim for the sixty-thousand-dollar (\$60,000) exemption is filed in conjunction with a timely filed claim for the forty-thousand-dollar (\$40,000) exemption, or if a late filed claim for the one-hundred-fifty-thousand dollar (\$150,000) exemption is filed in conjunction with a timely filed claim for the one-hundred-thousand-dollar (\$100,000) exemption, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds forty thousand dollars (\$40,000) or one hundred thousand dollars (\$100,000), as applicable.

(c) For those claims filed pursuant to subdivision (a) after November 15, the exemption under that subdivision may be applied to the second installment. If that exemption is so applied, the first installment is still delinquent on December 10, and is subject to delinquent penalties provided for in this division if that installment is not timely paid. A refund shall be made to the taxpayer upon a claim submitted to the auditor if the exemption is applied to the second installment and either of the following is true:

- (1) Both installments are paid on or before December 10.
- (2) The reduction in taxes resulting from the exemption exceeds the amount of taxes due on the second installment.

Section 276.1 of the Revenue and Taxation Code is amended to read:

276.1. For property for which the disabled veterans' exemption described in Section 205.5 would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA), there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, subject to the provisions for cancellations in Article 1 of Chapter 4 (commencing with Section 4985) and the limitations periods on refunds as described in Article 1 of Chapter 5 (commencing with Section 5096), levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, provided that the claimant meets both of the following conditions:

(a) The claimant had an application pending with the USDVA for a disability rating and subsequently received a rating that qualifies the claimant for the disabled veterans' exemption described in Section 205.5.

(b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 the later of 30 days of receipt of the disability rating from the USDVA or on or before the next following lien date.

Section 276.2 of the Revenue and Taxation Code is amended to read:

276.2. If the disabled veterans' exemption as described in Section 205.5 would have been available for a property, but for that property being acquired by a person eligible for the exemption only after the lien date, or but for that property being owned by a person eligible for the exemption on the lien date and not residing on the property on that date, and an appropriate application for that exemption is filed on or before the lien date in the calendar year next following the calendar year in which the property was acquired or resided in as the principal place of residence, there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

Section 276.3 of the Revenue and Taxation Code is amended to read:

276.3. (a) In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person that is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.

(b) In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is no longer used by a claimant as his or her principal place of residence, the exemption shall cease to apply on the date the claimant terminates his or her residency at that location.

(c) Termination of the exemption under this section shall result in an escape assessment of the property pursuant to Section 531.1.

Section 531.1 of the Revenue and Taxation Code is amended to read:

531.1. Upon the termination of an exemption pursuant to Section 276.3, ~~Upon receipt of a~~ notice pursuant to Section 284, or upon indication from any audit or other source that an exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the exemption. If an exemption or any portion of an exemption has been terminated or has been incorrectly allowed, an escape assessment in the amount of the exemption, or that portion of the exemption that has been terminated or erroneously allowed, with interest as provided in Section 506, shall be made; except that where the exemption was terminated pursuant to Section 276.3 or where the exemption or a portion of the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete, the penalty provided in Section 504 shall be added to the assessment.